

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
Plaintiff,) 8:09CR272
vs.) ORDER
SHANNON B. JACKSON and)
MICHAEL D. MC CROY,)
Defendants.)

This matter is before the court on the motion to continue by defendant Michael D. McCroy (McCroy) (Filing No. 135). McCroy seeks a continuance of the trial scheduled for May 3, 2010, on Counts I, II and III of the Indictment. McCroy has submitted an affidavit in accordance with paragraph 9 of the progression order whereby McCroy consents to the motion and acknowledges he understands the additional time may be excludable time for the purposes of the Speedy Trial Act (Filing No. 136). Kelsey's counsel represents that co-defendant Jackson's counsel has no objection to the motion. Upon consideration, the motion will be granted.

IT IS ORDERED:

1. McCroy's motion to continue trial (Filing No. 135) is granted.
2. Trial of Counts I, II and III of the Indictment is re-scheduled for **June 1, 2010**, before Chief Judge Joseph F. Bataillon and a jury. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **April 12, 2010 and June 1, 2010**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that defendant's counsel requires additional time to adequately prepare the case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(7)(A) & (B).
3. Trial of Counts IV and V of the Indictment against Shannon B. Jackson remain scheduled for May 3, 2010.

DATED this 12th day of April, 2010.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge